United Nations S/AC.37/2003/(1455)/33

Security Council

Distr.: General
24 April 2003

Original: English

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 21 April 2003 from the Permanent Mission of Croatia to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Croatia to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to forward the response of the Government of Croatia on the implementation of resolution 1455 (2003) (see annex).

03-35197 (E) 060603

Annex to the note verbale dated 21 April 2003 from the Permanent Mission of Croatia to the United Nations addressed to the Chairman of the Committee

Report of Croatia on the implementation of Security Council resolution 1455 (2003)

I. Introduction

1. Until today there have been identified no activities by Usama Bin Lade, Al-Qaida, the Taliban and their associated in the territory of the Republic of Croatia.

II Consolidated List

2. In accordance with resolutions 1267 (1999) and 1333 (2000), 1390 (2002) adopted by the Security Council on 16 January 2002, and, in particular, paragraphs 2, 6, and 8 the Government of the Republic of Croatia has taken following steps:

All the competent authorities (Financial supervision, police, immigration control, customs and consular authorities) in Croatia have been requested:

(a) to freeze without delay the funds and other financial assets or economic resources of individuals, groups, undertakings and entities, as referred to in the list created pursuant to resolutions 1267 (1999) and 1333 (2000) including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly, for such persons' benefit, by Croatian nationals or by any persons within the Croatian territory;

(b) to prevent the entry into or the transit through the Croatian territory of these individuals, provided that nothing in this paragraph shall oblige Croatia to deny entry into or require the departure from the Croatian territory of the Croatian citizens and this paragraph shall not apply where entry or transit is necessary for the fulfilment of a judicial process or the Committee determines on a case by case basis only that entry of transit is justified;

(c) to prevent the direct or indirect supply, sale and transfer, to these individuals, groups, undertakings and entities from their territories or by the Croatian citizens outside the Croatian territory, or using the Croatian flag vessels or aircraft, of arms and related material of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned and technical advice, assistance, or training related to military activities.

3. No problems have been encountered with implementing the resolution 1267 (1999).

4. Until today no designated individuals or entities referred to in the list created pursuant to resolutions 1267 (1999), 1333 (2000), 1390 (2002) and 1455 (2003) have been found in Croatia.

5. /

6. /

7. /

8. The Republic of Croatia regulated the issue of denying safe haven to terrorists by the Criminal Code, the Law on Movement and Residence of Foreigners and the Law on the Control of State Border of the Republic of Croatia. The Act on Asylum is in legislative procedure and is expected to be passed by the Parliament in the near future.

The Article 169 of the Criminal Code, paragraph 1, criminalises international terrorism, that is, when someone aims to harm a foreign state or international organisation, causes explosion or fire, or by any other commonly dangerous act or means causes any danger for people or assets, or where someone takes hostages or commits any other act of violence. The definition of international terrorism, as used in the Criminal Code, corresponds to the European Convention on the Suppression of Terrorism, of 1977 (Article 1).

Pursuant to the Criminal Code, instigators and accomplices who instigate the perpetrators or help by commission, shall be punished. If such an organisation is organised on the territory of the Republic of Croatia, its members would also be held responsible for the criminal act defined in Article 333, i.e. for organising or heading a criminal organisation, that is being members thereof.

Regional initiatives, such as the Stability Pact for South-eastern Europe tackle the issue of denying safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens, too. The partnership project among the Federal Ministry of the Interior of Germany, Ministry of the Interior of the Republic of Austria, Ministry of the Interior of the Republic of Slovenia and Ministry of the Interior of the Republic of Croatia has been agreed upon under the auspices of the Stability Pact. This project requires the creation of national plans of activities for lasting stabilisation and development in the area of asylum, migrations, border control and surveillance of the state border in Croatia, which should be based upon existing European Union standards. The above-mentioned project foresees co-operation in the field of telecommunications and harmonisation of legislation, co-operation among relevant institutions and personnel, expert education and specialisation, as well as the exchange of information. The extent of the attention paid to the problem of asylum and migrations within the Pact can be seen through the establishment of the "CARDS PROGRAM", within which two relevant projects have been drafted, "Integrated Management of Borders" and "Strengthening of Asylum and Migrations Development Policy".

The Republic of Croatia joined the RTF (Regional Task Force), group set up at the initiative of the United Nations, whose other members are the Federal Republic of Yugoslavia and Bosnia and Herzegovina (the Republic of Srpska and the Federation

of Bosnia and Herzegovina), and whose basic aim is enhancement of police co-operation.

III Financial and Economic Asset Freeze

9.

- The domestic legal basis to implement the asset freeze required by the resolutions above is the Law on the Prevention of Money-Laundering which prescribes measures to be taken in banking and financial transactions in order to detect and prevent money laundering.

- Impediments have been identified in a lack of criminalizing preparatory activities of the criminal act of international terrorism. Therefore, through a Bill of Amendments to the Criminal Code, currently in parliamentary procedure, the Republic of Croatia intends to criminalize or incriminate as criminal acts the procurement of, or preparing means for, removing obstacles to, collection or provision of pecuniary or other financial means, making plans or arrangements with another or taking other action to create conditions for direct performance of criminal acts containing elements of terrorism (anti-state terrorism, international terrorism, hostage taking, hijacking of airplane or ship, endangering the safety of persons under international protection, misuse of nuclear materials, endangering international air traffic and international maritime navigation – criminal acts under articles 170 through 172, 179 and 181).

After article 187 new articles 187.a and 187.b will be added, reading as follows:

Preparing criminal acts against values protected under international law

Whoever procures or prepares means for, removes obstacles to, collects or provides monetary or other financial means, makes plans or arrangements with another, or takes other action to create conditions for direct performance of criminal acts under articles 156 through 160, 169 through 172, 179 and 181 of this law,

shall be sentenced to imprisonment of one to eight years.

Subsequent assistance to the perpetrator of a criminal act against the values protected under international law

(1) Whoever hides the perpetrator of a criminal act under articles 156 through 160, 169 through 172, 179 or 181, or provides him with food, clothing, money or takes care of him in another way in order to make difficult his detection or arrest,

shall be sentenced to imprisonment of six months to three years."

The above proposed amendments indicate the intention to tighten the regime for suppression of terrorism and associated criminal acts, which is in conformity with the relevant international conventions.

4 Adoption of the amendments to the Criminal Code by the Croatian Parliament is expected in the course of 2003.

10. The Anti Money-Laundering Department issued directives for conduct under special circumstances, such as when a credible threat of international terrorism exists, putting in place special procedures for these circumstances. For example, when it is suspected that a financial transaction may be used for financing terrorist acts, a special co-ordinator is appointed for such cases, which are automatically designated as a priority in further processing within the Department. This procedure should ensure a rapid and adequate response to attempts to finance terrorist activities.

Within the framework of its competencies, the Anti Money-Laundering Department is streamlining its main activities on cutting off, i.e. detecting financial flows used by members of terrorist organisations through:

(i) enhancing and strengthening the co-operation with other Departments and Sections within the Ministry of Finance, as well as other state bodies (the Ministry of the Interior, the Office of State Prosecutor, the Croatian National Bank, the Ministry of Foreign Affairs) aimed at detecting whether suspected persons have criminal records or are under investigation, or whether the relevant bodies have any other information available;
(ii) intensifying and improving the co-operation and the exchange of information with foreign Offices (financial intelligence units), among other, via telephone and protected security web system.

At the regional and international level the Ministry of Finance, particularly the Anti Money-Laundering Department, is fully co-operative regarding the exchange of information connected to money laundering and the financing of terrorism. According to Article 14 of the Law on the Prevention of Money-Laundering, the Anti Money-Laundering Department is empowered to exchange information with foreign counterparts. Such units are integrated within the Egmont Group (association of the financial investigation units world-wide).

The procedures of future co-operation and exchange of information referring to money-laundering and financing of terrorism were agreed to at the special meeting of the Egmont Group with representatives of the USA supervisory services held on 31 October 2001 and 1 November 2001. It was decided that all the actions connected to combat money laundering and financing of terrorism should be proceeded through FinCen (USA financial investigation unit), as a co-ordinator of international exchange of information. Croatia regularly exchanges information with FinCen regarding informations on Taliban-related financial networks, or those who provide support to them within our jurisdiction.

11. The Anti Money-Laundering Department requested the Ministry of the Interior, the State Prosecutor and the Croatian National Bank to additionally examine their files and identify potential physical and legal persons as referred to in the list created pursuant to resolutions 1267 (1999), 1333 (2000), 1390 (2002) and 1455 (2003).

The Tax Department conducted a search of its databases for all purchases and sales of real estate, tangible and intangible property, as well as financial transactions of humanitarian organisations and associations connected to physical and legal persons

as referred to in the list created pursuant to resolutions 1267 (1999), 1333 (2000), 1390 (2002) and 1455 (2003).

The Customs Department searched its database for illicit transfers of cash over the state border pertaining to physical and legal persons as referred to in the list created pursuant to resolutions 1267 (1999), 1333 (2000), 1390 (2002) and 1455 (2003). It also strengthened the overall control of traffic of goods across the border, particularly the transfer of money.

The Division of Foreign Exchange Inspectorate searched its database looking for transactions made by physical and legal persons as referred to in the list created pursuant to resolutions 1267 (1999), 1333 (2000), 1390 (2002) and 1455 (2003).

Pursuant to the new Law on the Prevention of Money Laundering and its bye-laws, identifiers (developed according to eight recommendations of the Financial Action Task Force, the *FATF Recommendations*) focused on the suppression of financing terrorism will be sent to the banks to facilitate identification of dubious transactions of domestic and foreign non-profit organizations. If a bank identifies a dubious transaction, it is obliged to notify such a transaction to the Office for the Prevention of Money Laundering, which in turn must notify the Public Attorney's Office.

12. Until today no financial assets or economic resource of the individuals, groups, undertakings and entities referred to in the list created pursuant to resolutions 1267 (1999), 1333 (2000), 1390 (2002) and 1455 (2003) have been found in Croatia.

13.

14.

- The Anti Money-Laundering Department searched its databases and checked the names of over 600 physical and legal persons, from the list issued pursuant to SC resolution 1267 (1999), 1333 (2000), 1390 (2002) and 1455 (2003). It applied the same procedure to the lists received in bilateral contacts from certain states. Also, the Anti Money-Laundering Department conducted a search of the financial system (bank system). The results were sent to FinCen (USA Financial Investigation Unit), which was agreed to be an international co-ordinator for the exchange of information.

The Anti Money-Laundering Department requested the Ministry of the Interior, the State Prosecutor, the Croatian National Bank, the Tax Department, the Customs Department and the Division of Foreign Exchange Inspectorate to additionally examine their files and identify potential physical and legal persons who can be associated with terrorist organisations and financing of terrorist activities.

See the answer provided in paragraph 11.

- The banks and other legal entities and natural persons referred to in Article 2 of the Law on the Prevention of the Money Laundering have to, at the request of the Head of the Office for Prevention of Corruption and Organised Crime,

promptly forward the information of the balance of the accounts of the person suspicious of hiding the source of such money, or of gaining such money for the criminal proceedings. If the period for forwarding such information set by the Office in its request has been exceeded without a justified reason, the responsible person shall be liable for the criminal offence of obstructing the evidence pursuant to Article 304, Paragraph 2 of the Criminal Code.

- When opening an account, foreign non-profit organizations are obliged, in compliance with the Decision on Required Documentation (Official Gazette No. 38/99), to attach a transcript of the Registration Certificate from the Register of Organizations in their country of origin, not older than one month, confirming their legal status, along with a list of signatures of authorized persons.

If it involves a foreign non-profit organization with a registered branch office in Croatia, a Registration Certificate from the Register of Foreign Organizations with the Croatian Ministry of Justice will be required, along with a list of signatures of authorized persons.

In line with the Amended Conditions under which Foreigners May Acquire Funds in Domestic Currency (Official Gazette No. 14/96), as well as the Decision on Withdrawing Cash from Foreign Exchange Accounts Owned by Foreign Entities (Official Gazette No. 28/97), all foreign non-profit organizations not having a registered branch office in Croatia shall have limited access to financial resources held on non-resident accounts in terms of depositing and withdrawing cash.

Pursuant to the obligation under the Law on the Prevention of Money Laundering (Official Gazette No. 69/97), deposits of funds in excess of Kn 105,000 (US$ 15,000) on non-resident accounts of foreign non-profit organizations shall be registered with the Office for the Prevention of Money Laundering on the basis of data submitted by the banks with which such non-resident accounts have been opened.

The Office for the Prevention of Money Laundering has analytical mechanisms for identification of transactions which depart from usual business activities, including those of domestic and foreign non-profit organizations. In a new Law on the Prevention of Money Laundering, which is in the parliamentary procedure, this activity will be additionally specified. Pursuant to the new Law on the Prevention of Money Laundering and its bye-laws, identificators (developed according to eight recommendations of the Financial Action Task Force, the *FATF Recommendations*) focused on the suppression of financing terrorism will be sent to the banks to facilitate identification of dubious transactions of domestic and foreign non-profit organizations. If a bank identifies a dubious transaction, it is obliged to notify such a transaction to the Office for the Prevention of Money Laundering, which in turn must notify the Public Attorney's Office.

IV. Travel Ban

15. The border police of the Ministry of the Interior prevents the movements of potential terrorists and persons who could be connected to them across the state border, in accordance with the Law on the Control of the State Border, as well as of the Law on Movements and Residence of Foreigners.

Border Police and Control authorities have been strengthened. Control of persons, vehicles and luggage have been intensified on all border crossings. Also, control of persons and luggage on domestic and international flights have also been strengthened, while additional checkpoints at entrances of all airports (with selective control of drivers, passengers and vehicles) have been established.

The Law on Travel Documents of the Croatian Citizens regulates issuing of identity cards and travel documents to Croatian nationals, and the requirements and conditions under which they are issued. A high level of protection of Croatian travel documents was introduced in accordance with the ISO-standards on 1 January 2000.

16. The names of the listed individuals in the lists pursuant to resolutions 1267 (1999), 1333 (2000), 1390 (2001), 1455 (2003) have been included in the Croatian border checkpoint list.

17. Shortly after the Security Council Committee established pursuant to resolution 1267 (1999) enlarges the Committee's Consolidated List with new names, the Croatian border control authorities are informed accordingly.

18. To date, Croatian authorities have identified no terrorist groups or individuals that attempted to enter or transit the country.

19. The Croatian Consular office has incorporated the lists pursuant to SC resolutions 1267 (1999), 1333 (2000), 1390 (2001) and 1455 (2003) in its reference database. Until today the Croatian visa-issuing authorities have not identified any visa applicant whose name appears on the list.

V. Arms Embargo

The Republic of Croatia signed with the USA the Agreement on Non-proliferation of the Weapons for Mass Destruction by Terrorist Organisations.

20. On the basis of Article 4, paragraphs 3, 4 and 5 of the *Decree on Goods Subject to Import and Export Licencing* ("Official gazzette" nr. 118/01, 108/02 and 134/02), the The National Licencing Authority for Import/Export Control of Weapons for Commertial Purposesissues export/import licences for weapons for commertial purposes. The Authority is comprised of representatives from the Ministry of Defense, Ministry of Internal Affairs, Ministry of Foreign Affairs and Ministry of Economy.

Within the framework of each member's responsibility, as defined by the jurisdiction of his/her Ministry, every member of the Authority is authorized to give an opinion so that:

- the representative of the Ministry of Defense is responsible for determining whether or not the goods in question are military in nature and if these goods, as such, can be used for military or civilian purposes. This can be determined using the specifications submitted by the parties involved, and from the name and type of goods.
- the representative of the Ministry of Interior Affairs is responsible for controling the type and the purpose, as well as the amount of the goods in question, and for controling the enclosed specifications and contracts.
- the representative of the Ministry of Foreign Affairs is responsible for ensuring that the process of approving a request does not bring Croatia's security into danger, as well as ensuring that the request does not violate international legal obligation that Croatia has undertaken to uphold.

- the representative of the Ministry of the Economy gathers formal requests submitted by parties interested in importing and exporting weapons; contacts those parties and gives them instructions relating to their requests; calls the National Licencing Authority to meeting; takes Minutes of the Authority's meetings that detemine when the meeting took place, how many requests have been received, how many requeats have been approved, and why certain requests were not approved; and ensures that requests follow legal requirements.

The Authority does NOT consider the following requests:

- if the form MG-TI/MG/TU of the the *Decree on Goods Subject to Import and Export Licencing* is not filled out correctly;
- if all necessary specifications, formulated by the Authority, are not enclosed in the request;
- if all necessary documents (the order, the contract, the proposal, the bill etc.) are not enclosed;
- if the original "end user certificate" and a copy of the import licence are not enclosed;
- if the "end user certificate" and the copy of the import licence, issued in a foreign language, had not been translated into Croatian by an official court interpreter;
- if a certificate confirming the payment of administrative tax is not enclosed.

The Authority regularly meets twice a month (every 15 days), although if the situation requires it can meet more often.

The minutes of every meeting have to be approved and signed by all members of the Authority at the next meeting, which are then archived in the ministy of Economy.

If even one member of the Authority does not give his/her consent for issuing a licence, the request cannot be accepted.

The Government of the Republic of Croatia adopted on 9 May 2002 the Decision on accepting the principles contained in the European Union Code of Conduct for Arms Exports adopted on 8 June 1998.

Consequently, the **Law on Production, Overhaul and Trade of Weapons and Military Equipment**, which (in part that regulates trade of weapons) authorises a

designated Government Agency to establish and maintain a database of imported and exported weapons and military equipment was adopted on 29 March 2002.

Taking into consideration that arms control agreements are not primarily designed as tools for combating terrorism, there are some elements that are useful in efforts to suppress terrorism (e.g. monitoring treaty-limited equipment, inspection regime, declarations and annual exchange of information related to equipment and armament). The Croatian Verification Centre, as an executive arms control centre within the Ministry of Defence, actively participates in the implementation of internationally accepted commitments in the area of arms control, particularly the Agreement on Sub-regional Arms Control (Article IV. Annex 1-b of the Dayton Peace Agreement for Bosnia and Herzegovina). The Centre also deals with the implementation of Confidence and Security Building Measures (CSBMs) within the framework of the Vienna Document 1994/1999, along with additional regional and other CSBMs, based on reciprocity.

21. Croatian legislation contains provisions that criminalize support, active or passive, to entities or persons involved in terrorist acts, including the supply of weapons to terrorists. The main provisions are contained in the Criminal Code, the Trade Act and Government Decision on Determination on Goods Imported and Exported on the Basis of Licenses and the Law on Production, Overhaul and Trade of Weapons and Military Equipment.

Article 334, paragraph 1 of the Criminal Code, which deals with the assembly and supply of weapons and instruments intended for the perpetration of a criminal offence, provides for the punishment for whoever makes, supplies or enables another to obtain weapons, explosive substances or means intended for their production, or poisons which he knows to be intended for the perpetration of a criminal offence. The perpetrator shall be punished by a prison term from three months to three years.

Article 335, paragraph 1 is on illicit possession of weapons and explosive substances. It incriminates unauthorised possession of firearms and explosive substances, when a person makes, supplies, possesses or otherwise acquires for himself/herself or a third party firearms, ammunition or explosive substances whose supply, sale or possession is not permitted to citizens. The perpetrator shall be fined or imprisoned for up to three years. Paragraph 2 provides for the punishment for whoever supplies, possesses, sells, makes or exchanges, without authorisation, larger quantities of firearms, ammunition or explosive substances. The perpetrator shall be imprisoned from one to five years.

22. See answer provided in paragraph 20.

23. See answer provided in paragraph 20.

VI. Assistance and conclusion

24. /

25. There is an assessment of a security risk, where members of terrorist groups can use channels established and used by organisers of illegal immigration in order to penetrate into Western European countries. The Ministry of the Interior identified the need for a better-equipped system on border crossing points that will directly be connected to the central headquarters operated by the Ministry of the Interior. The standards of the border crossing-points should be adjusted to the EU standards by purchasing necessary equipment such as: optical passport reader; device for preliminary detecting of counterfeit passports; explosive detector and video-surveillance.

The Ministry of Finance identified the same need with regard to the control of the traffic of goods and services across the state border, which is within its jurisdiction. The Institute "Ruđer Bošković" in Zagreb prepared a proposal of a project named "Terrorism and Illicit Trafficking in Explosives, Chemical Agents, Nuclear Material and Humans". The purpose of this proposal is to enhance border control and consequently national security, and thus to contribute actively to the full implementation of the Security Council resolutions 1373 (2001). The Government of Republic of Croatia has already submitted its request for financial and technical assistance to the Security Council.